



LEGAL DIVISION

TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS

LEGAL DIVISION

The **LEGAL DIVISION** provides legal advice and representation for the Department. This Division consists of a General Counsel, two staff attorney positions, and a paralegal.

The Department's lawyers advise the Commissioner and departmental personnel in all legal matters affecting the Department. They work with regulated entities and the general public in addressing legal issues. They also work closely with the Governor's Office and the Tennessee General Assembly on legislative issues affecting financial institutions. The Legal Division also assists in the coordination of enforcement initiatives with other federal and state regulators as well as with various law enforcement agencies.

The Legal Division was heavily involved in the 2000 Legislative session as the Department's legislative liaison by tracking numerous bills, working closely with the Governor's Office, the General Assembly, and other groups sponsoring legislation which impacted the Department. This Division provided assistance to our operating divisions on issues involving bank and trust company operations including interstate transactions, bank and credit union applications, money transmission, check cashing, deferred presentment, mortgage companies, and credit union field of membership, plus several other issues. The Legal Division is significantly involved in the day-to-day decision making process of the Department.

BILLS IMPACTING THE DEPARTMENT

Public Chapter 852
Amends T.C.A. Section 50-6-225 (Also Adds New Section)
Effective Date July 1, 2000

Public Chapter 852 amends T.C.A. §50-6-225, with regard to interest on judgments under the worker's compensation law. Specifically, Section 7 makes clear that, in the event a judgment entered by a trial court in a worker's compensation case is appealed, interest on the judgment shall be computed at an annual rate of five percentage points above the average prime loan rate from the date that the judgment is entered by the trial court. Prior law did not specify the date from which interest was calculated. Moreover, Section 7 states that, in calculating the accrual of interest, the average prime loan rate on the day the trial court entered judgment shall be used.

Section 8 adds a new section to T.C.A. §50-6-225, requiring the Department of Financial Institutions to maintain a listing of the average prime loan rate and to respond to inquiries concerning what the average prime loan rate was on a given month and year. The Commissioner is further required, if the person inquiring requests, to send a letter certifying what the average prime loan rate was on the month and day requested. The Commissioner can charge a fee not to exceed \$10.00 for preparing and sending the letter.

Public Chapter 629
Amends T.C.A. Title 47 (New Section)
Effective Date January 1, 2001

Public Chapter 629 amends T.C.A. §47-14-108 – the provision in Tennessee's general usury laws on prepayment of loans – by adding a new section. This law specifically applies to contracts for consumer loans which are not subject to the Federal Truth in Lending Act and which do not allow pre-payment of the loan or impose a penalty for prepayment. Under this law, the contract shall, "state on its face in at least 10-point bold type in language separated from the other language in the contract by bold print dividing lines that it cannot be prepaid or that there is a penalty for prepayment." This law goes on to state that failure to provide the appropriate notice will result in the unenforceability of the prepayment provisions.

TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS

Public Chapter **963**
Amends **T.C.A. Section 47-18-2404**
Effective Date **July 1, 2000**

Public Chapter 963 amends the Tennessee Consumer Protection Act, Title 47, Chapter 18, by adding a new part. Specifically, this law applies to a solicitation to lend money to a borrower for the consolidation or payment of other indebtedness in those instances where the loan will result in the borrower's home becoming collateral for the loan. This law requires that the solicitation clearly state in writing in bold face type at least ten points that the borrower's failure to timely make loan payments or to repay the loan will result in the borrower's home being subject to foreclosure and also that additional information on debt consolidation loans is available from the Tennessee Department of Commerce and Insurance. Moreover, under this law, the solicitation shall also state whether it is the obligation of the lender or the borrower to make payments to prior lenders. The failure to comply with the provisions of the law shall subject the lender to treble damages.

This law does not apply to banks, credit unions, savings and loan or any subsidiary or affiliate of the foregoing as well as any entity regulated by this Department.

Public Chapter **684**
Amends **T.C.A. Section 45-5-403**
Effective Date **July 1, 2000**

Public Chapter 684 amends T.C.A. §45-5-403, a provision in the Industrial Loan and Thrift Companies Act, by adding a new schedule of loan charges which the lender may charge on small loans ranging from \$100 to \$1,000 in lieu of those charges presently set forth in Section 403. This law also provides that a lender who imposes the charges authorized may also collect a bad check charge from a borrower as well as require the payment of attorney's fees in the event a borrower defaults on a loan. This law prohibits loan charges authorized under this law from being imposed on a loan to a borrower who has one or more loans outstanding with the same registrant or affiliated lender and upon which loan charges were imposed under present law to either 4% of the total loan amount or a flat service charge.

Public Chapter **570**
Amends **T.C.A. Section 45-2-708**
Effective Date **Immediately**

Public Chapter 570 removes the "contents of safe deposit boxes" from being counted against the \$10,000 limit which a bank can disburse from the deposit account of a deceased depositor.
